

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**LARRY KLAYMAN AND
DEMETRICK PENNIE,**

Plaintiffs,

v.

**PRESIDENT BARACK HUSSEIN
OBAMA, *et al.*,**

Defendants.

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Civil Action No. **3:16-CV-2010-L**

ORDER

This action was filed on July 9, 2016. When service is not made on a defendant within 90 days after filing of the complaint, the court may, after notice to the plaintiff, dismiss the action as to that defendant without prejudice, or, instruct the plaintiff to effect service within a specific time. Fed. R. Civ. P. 4(m). On December 16, 2016, the court, noting that the docket sheet reflected that numerous defendants had not yet been served with process, directed Plaintiffs “to effect service on Defendants Black Lives Matter, Johnetta Elzie, Nation of Islam, Opal Tometi, Patrisse Cullors, Alicia Garza, Hillary Clinton, and the New Black Panthers Party by **January 17, 2016**, by **5:00 p.m.**, or show good cause in writing by **January 17, 2017**, by **5:00 p.m.**, for the failure or inability to effect service on these Defendants.” Order at 5 (Doc. 88) (original emphasis). The court further stated that: “*Failure of Plaintiff to effect service or show good cause in accordance with this order will result in dismissal of this action without prejudice, pursuant to Rule 4(m), as to Defendants Black Lives Matter, Johnetta Elzie, Nation of Islam, Opal Tometi, Patrisse Cullors, Alicia Garza, Hillary Clinton, and the New Black Panthers Party.*” See *id.* (original emphasis).

On January 17, 2017, Plaintiffs filed their “Response to the Court’s Order of December 16, 2016, and Motion for Extension of Time to Serve Remaining Defendants.” (Doc. 99). Plaintiffs attached proof that summons had been served on Defendants Opal Tometi and Patrisse Cullors, but not on remaining Defendants Black Lives Matter, Johnetta Elzie, Nation of Islam, Alicia Garza, Hillary Clinton, and the New Black Panthers Party. Instead of complying with the court’s order, Plaintiffs sought an additional thirty days to serve these Defendants, explaining that, although they had requested that Same Day Process Servers effect service on October 26, 2016, because of a miscommunication, Plaintiffs discovered on January 17, 2017, that service on the remaining Defendants had not yet been effected. *See* Affidavit of Oliver Peer (Doc. 99 at Ex. B). Because Plaintiffs mistakenly docketed their motion as a response, the court did not have the opportunity to consider the motion in a timely fashion.

On February 16, 2017, Plaintiffs filed their “Supplemental Response to the Court’s Order of December 17, 2016, and Request for Status Conference.” (Doc. 118). Plaintiffs assert that summons has been served on Defendants Hillary Clinton and Nation of Islam, but that they have not been able to serve summons on Defendants Black Lives Matter, Johnetta Elzie, Alicia Garza, and the New Black Panthers Party. Plaintiffs assert that these Defendants “have been avoiding service and Plaintiffs have been unable to locate them through the process server.” Supp. Resp. 1 (Doc. 118).

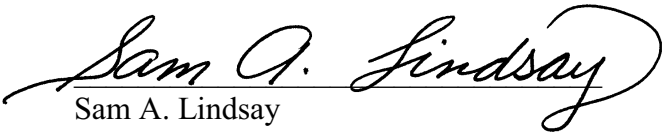
Having considered the matter, the court hereby **grants** Plaintiffs a third, and **final**, extension of time to effect service on Defendants Black Lives Matter, Johnetta Elzie, Alicia Garza, and the New Black Panthers Party, and **directs** Plaintiffs to effect service on these four Defendants by **Friday March 17, 2017, by 5:00 p.m.** and to document proof of service on the docket sheet by this time. Absent proof of service by this time, and recognizing that Plaintiffs have had more than ample

time to effect service (including three extensions of time allowed by the undersigned), the court will *dismiss this action without prejudice, pursuant to Rule 4(m), as to Defendants Black Lives Matter, Johnetta Elzie, Alicia Garza, and the New Black Panthers Party.*

As the court has allowed Plaintiffs a twenty-eight day extension of time to effect service of process on Defendants Black Lives Matter, Johnetta Elzie, Alicia Garza, and the New Black Panthers Party, the court **denies as moot** Plaintiffs' Motion for Extension of Time to Serve Remaining Defendants, filed January 17, 2017 (Doc. 99); and Plaintiffs' Request for Status Conference, filed February 16, 2016 (Doc. 118).

Notwithstanding Plaintiffs' repeated failure to follow the Federal Rules of Civil Procedure and the Local Rules governing motion practice and litigation in the Northern District of Texas, the court has been extremely patient with Plaintiffs, but the court's patience cannot continue. The court has grown weary of Plaintiffs' repeated excuses for failure to meet deadlines. Plaintiffs chose this forum to bring suit, decided the number of and which persons to sue, determined the claims to assert, and, therefore, knew the magnitude and scope of this litigation. Further, Plaintiffs are to file motions separately and not combine or include them in other filings, or docket them using the wrong appellation. Failure to follow the rules governing motion practice in this district will result in appropriate sanctions.

It is so ordered this 17th day of February, 2017.


Sam A. Lindsay
United States District Judge